

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 2 Multiethnic Placement Act and Interethnic Placement Act (MEPA-IEPA)

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on December 5, 2017, at the following address:

Office Building # 8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on December 5, 2017.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at (<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information>). Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

California Code of Regulations, Title 22, Division 2, Chapter 3, Sections 35000 (Definitions) and 35011 (Recruitment of Adoptive Applicants) and California Department of Social Services Manual of Policies and Procedures, Division 31, Chapter 31-000, Section 31-005 (Child Welfare Services Program Support Activities); and Chapter 31-400, Sections 31-405 (Social Worker Responsibilities for Placement), 31-420 (Foster Care Placement), and 31-425 (Permanent Placement).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing adoption and foster care regulations specify the procedures individuals must follow in order to qualify to adopt a child or enroll in the foster care program. The regulations do not specify how to recruit prospective foster and adoptive individuals who reflect the racial, color, or ethnic and cultural identity of children who need permanent homes.

These regulations are necessary to promote the best interest of children in out-of-home care by ensuring that children have permanent, safe and loving homes. These regulations comply with the provisions from the noted legislation.

The Multiethnic Placement Act (MEPA) of 1994, Public Law 103-382 and the Interethnic Adoption Provisions (IEAP) of 1996, Public Law 104-188 are federal laws that govern how foster and adoption placement decisions involving race, color or national origin (RCNO) and culture are considered. The focus of MEPA/IEAP is to reduce the length of time that children wait to be adopted. The MEPA/IEPA law also applies to foster care or adoption placement agencies receiving Title IV-B or Title IV-E funds.

These proposed regulations are necessary to implement the mandates of MEPA. The agency is required to make diligent efforts to recruit a pool of prospective foster and adoptive individuals who reflect the racial, color, or ethnic and cultural identity of children who need permanent homes.

The intent of the proposed regulations is to increase the number of adoptive and foster parents who represent the racial and ethnic backgrounds of children in need of permanent, safe and loving homes and expanding a stable pool of prospective adoptive and foster parents.

The IEPA mandates that the RCNO may not be used as the basis for delay or denial for neither placement, nor such factors are used to delay any foster or adoptive placement because of a delayed search for a same RCNO placement.

The anticipated benefit of these regulations is to increase the number of adoptive and foster parents who represent the racial and ethnic backgrounds of children needing permanent, safe and loving homes. Expanding a stable pool of prospective adoptive and foster individuals will assist an agency in finding an approved parent who is prepared to meet a child's needs without delay due to the practice of racial and ethnic matching. These regulations prohibit delay or denial of adoption or foster care placement based on race, color, or national origin or culture of the parents or the child.

The Department considered other possible related regulations in this area, and found that these are the only regulations dealing in this subject area and therefore, the Department finds that these proposed regulations are compatible and consistent with the intent of the MEPA/IEAP, as well as with existing state regulations.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: No fiscal impact.
4. Federal Funding to State Agencies: No fiscal impact.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the knowledge that these activities are a part of the adoption/foster care process and it would be a cost savings when a child is adopted, as the state no longer pays for foster care.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The CDSS determines that there is little to no impact on small businesses as a result of filing these regulations. Targeted recruitment is considered part of conducting everyday business for licensed adoption agencies and foster agencies in communities where families can be found that are likely to be a resource for the children and youth in their care. These regulations have no impact on county adoption agencies as they are funded by the state.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: These regulations will provide clarity and direct foster care agencies to conduct recruitment activities for the purpose of recruiting prospective foster parents who reflect the racial, ethnic and culture diversity of the children and youth who need permanent homes.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

There are no alternatives to these regulations. The CDSS, Children and Family Services Division is responsible for oversight and providing guidance to ensure that public welfare adoption agencies, private adoption agencies and foster agencies follow laws and regulations regarding recruitment of prospective adoptive and foster individuals in accordance with federal Public Law 103-382 and Public Law 104-188, and Family Code sections 8708 and 7950 to eliminate racial, ethnic and national origin discrimination and bias in adoption and foster care placement. These regulations prohibit delay or deny placement of a child for adoption or foster care, based on race, color, or national origin (RCNO) of the adoptive or foster parent, or the child. An agency is prohibited from denying anyone the opportunity to become an adoptive or foster parent, on the basis of RCNO or culture of the individual parent or child in accordance with the law. These regulations require agencies to recruit a diverse base of prospective adoptive and foster parents to meet the needs of the children in out of home care. Recruiting adoptive parents who express an interest in adoption of a child who has been legally freed for adoption increases the annual percentage of adoptions.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. Subject regulations implement and make specific Sections 7950, 8708 and 8710, Family Code; and 42 United States Code sections 622(b)(7) and 1996b.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:	Everardo Vaca	(916) 657-2586
Backup:	Sylvester Okeke	(916) 657-2586